

SPEECH

OF

HON. JACOB COLLAMER, OF VERMONT,

ON

THE TREASURY NOTE BILL.

DELIVERED IN THE SENATE OF THE UNITED STATES, FEBRUARY 12, 1862.

The Senate having taken up for consideration, as in Committee of the Whole, the bill (H. R. No. 240) to authorize the issue of United States notes and for the redemption or funding thereof and for funding the floating debt of the United States, Mr. COLLAMER said:

MR. PRESIDENT: But for the rich feast in which I have participated in listening to the honorable Senator from Maine, I might regret that time has flown so that I am compelled to begin at so late a period of the day what I desire to say. I am fully prepared, however, to admit that the attention of myself and others has been well and profitably occupied. One remark fell from the Senator, which he thought proper to repeat, that could not but attract my attention, because it stands *in limine* at the entrance of the remarks which I am about to make. If I understand him, he says that if there is a necessity for the issuing of this paper and making it a legal tender, he is ready to vote for it. I differ from the Senator there, to begin with. I do not know how other members of the Senate look upon the obligation of their oath to support the Constitution of the United States. To me it is an oath registered in Heaven as well as upon earth, and there is no necessity that in my estimation will justify me in the breach of it. I think those men who are now risking their lives upon the high places of the field to support the Constitution, are not to be treated in this Hall by us with the concession that we are ready, if the necessity calls for it, to break it. All that our rebel enemies are engaged in is the overthrow of the Constitution, and all that we are contending for is its maintenance and preservation. Let the necessity be what it may, I cannot disregard the obligation of my oath to support the Constitution; and it is mainly with a view to ascertain what is the true meaning of the Constitution upon this subject that my remarks are presented, though other things will run parallel with that, tending to the same result.

Mr. President, we are now about to plight our public faith for the purpose of obtaining the use, at least for the time being, of large sums of money. I perfectly agree with the honorable Senator from Maine, that there is but one foundation for our success in an effort to obtain money, and that is plighted public faith. We may promise this thing; we may

agree to-day to issue \$150,000,000 of these notes, and make them a legal tender, and promise that the amount shall never exceed that sum; but we may repeal that to-morrow, if a regard for the obligations of plighted faith will allow us to do so; we have the power. If, sir, there be betrayed on the part of Congress any tender footedness; any, the least, indication that it does not regard contracts honestly made as inviolable; it will have lost the public confidence and broken the public faith. If that manifestation be in this form, if it be seen that Congress has broken or assisted men to break their private contracts, will not the world at once say "what confidence can we have in the United States Government that they will not break contracts of their own, when they think they have any interest to do so?"

We pause to inquire first what is proposed to be done; and that leads to an inquiry into the leading features of this bill. What are they? I need not go over them in detail but will state briefly the points in it to which I wish to call attention. In the first place, it provides for the issue of Treasury notes as a circulation; in the second place, it makes them payable by the Government on all debts due by it; and in the third place, it makes them a tender on all private debts.

I admit that when the Government borrows money, it must give some evidence of the debt, whether by the name of Treasury notes or by some other name, is immaterial. The power given in the Constitution to Congress to borrow money on the credit of the Government of course carries with it the power to give a certificate of that debt. Treasury notes have heretofore been issued in various forms; but uniformly, on all occasions, those Treasury notes have been receivable, even for debts due from the Government, only at the option of the receiver. Generally, that has been expressed in the statute itself, that they should be payable on any debts due by the Government, to be received at the option of the creditor. This bill, I understand, makes them payable absolutely without regard to the wishes of the creditor. This is the first time that has ever been attempted, even in relation to debts due by the Government. It is not necessary to put into the bill that they shall be received by the Government in payment of debts due to it, though it is well enough to do so. I should suppose that, according to the common law, no man could refuse to receive his own notes towards payment of a debt due to him. If I had a debt due to me from a man, I would of course receive in payment a note from me to him which had fallen due. That is a common-law right. The Government receives its own paper on debts due to itself. But the point I am talking of, is the proposition to make this paper payable by coercion and receivable by force by all persons to whom the nation is indebted. That is entirely a new feature, never before attempted in any extremities of our Government, at any period of its history, since the formation of the present Constitution.

But, sir, the more important feature to which I wish to call attention is that the bill proposes to make these notes a legal tender in payment of private debts between man and man, with which the Government has nothing to do. Why is this? What is the object intended to be effected by making these notes thus a tender in payment of private debts? I have before me a letter addressed by the Secretary of the Treasury, Mr. Chase, to a Representative in the other House, and which was used in that body, from which I wish to read for the purpose of seeing what is the object to be effected, and why it is to be effected. Speaking of these notes, he says:

"The making them a legal tender, however, might still be avoided, if the willingness manifested by the people generally, by railroad companies, and by many of the banking institutions, to receive and pay them as money in all transactions were absolutely or practically universal; but, unfortunately, there are some persons and some institutions which refuse to receive and pay them, and whose action tends not merely to the unnecessary depreciation of these notes, but to establish discrimination in business against those who, in this matter, give their cordial support to the Government, and in favor of those who do not make such discrimination. This, if possible, should be prevented, and a provision making notes a legal tender, in a great measure at least, prevents it, by putting all citizens in this respect on the same level, both of rights and duties."

There is the statement. This feature of the bill is ingrafted on it for the purpose of making the thing precisely equal, and operating alike on all citizens of the community. Now, what does the word "tender" mean? I do not speak of it as an adjective; I speak of it as a noun, a substantive. It means an attempt at payment, an offer of payment of a debt due. It applies to nothing else. Here comes a distinction which, it seems to me, has hardly been looked at, in the importance in which I view it, in all the discussions in the House of Representatives. Who, under this bill, is compelled to take this paper called money? Nobody but those who have debts due them. Nobody is compelled to take it for his property. Tender cannot be made to a man to obtain his horse from him. He has a horse to sell, he has flour to sell, merchandise to sell, work to perform, labor to do; you cannot make a tender to a man for any of these things. In all the great general affairs of life, this provision, made, as it is said, to make men equal, can never have any application to them. It applies to nobody except some man who has been so unfortunate as to incur the public displeasure because he has saved a little money from his industry, and has it in the form of a debt due him. It is none but such an unfortunate man that can be reached by this provision, and that is called making things equal? I do not know what opinions other men may have about equality. I have heard that equality was equity. If they are convertible terms, I say that is not equality or equity either. The number of people who owe debts in every community is very much larger than those who have debts due to them. To all those people you address yourself by this tender clause, saying, "we engage all of you who owe debts to depreciate this paper as much as you can and get it as cheap as you can, to cheat your creditors with." That is enlisting a very great aid, I take it, to the currency of this paper.

It is hardly necessary that I should elaborate this point; but I will here remark, that this was the great seminal principle that occasioned all the trouble in this country in the time of our Revolution and the period succeeding the Revolution up to the time of the formation of the present Constitution, in regard to money matters. It is that resort was then had on all occasions, whenever there was a public pressure, to some sort of relief laws, or stay laws, or tender laws; some species of imaginary provisions of relief was constantly pursued, and this temporizing policy demoralized the whole community, destroyed all confidence, public and private, and entirely destroyed all credit and all trade.

Here is the same thing now. I know it is easy to talk about the hard-hearted creditor and the unfortunate poor debtor. That kind of argument is often addressed to our humanity, and by and by I suppose it will be addressed to our cupidity, if there are more of our constituents that can be relieved by making a provision of this kind to pay off their debts

cheap and easy. I suppose it was on account of representatives trying to accommodate their constituents in that way, that the early writers said that the very possession of the power to do a thing of this kind was demoralizing to those who possessed that power. Cycles in national affairs, in politics, as well as in natural philosophy, return to us; and I cannot but here feel it my duty somewhat to elaborate this point, and to show that this very idea of credit and relief laws was the beginning of trouble in this country, and that it never ended until the present Constitution was adopted, and the people were relieved *ex necessitate* from those delusions which they had been accustomed to follow. On this point I will read from Judge Story on the Constitution:

"The prohibition" (on the States) "to 'emit bills of credit' cannot, perhaps, be more forcibly vindicated than by quoting the glowing language of the *Federalist*, a language justified by that of almost every cotemporary writer, and attested in its truth by facts, from which the mind involuntarily turns away at once with disgust and indignation. 'This prohibition,' says the *Federalist*, 'must give pleasure to every citizen in proportion to his love of justice, and his knowledge of the true springs of public prosperity. The loss which America has sustained since the peace from the pestilential effects of paper money on the necessary confidence between man and man; on the necessary confidence in the public councils; on the industry and morals of the people; and on the character of republican government, constitutes an enormous debt against the States, chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt which can be expiated no otherwise than by voluntary sacrifice on the altar of justice of the power which has been the instrument of it.'"—*Story's Commentaries on the Constitution*, sec. 1352.

This was said in relation to the States issuing paper, and making it a tender. Judge Story next pays a little attention to the subject of what is commonly called the Continental money. He gives the history of this issue, amounting in the whole to \$300,000,000, though Congress had stopped at one period, and said it should not exceed \$200,000,000. In the first place, Congress declared that the States should pass laws to make the Continental money a tender for debts. Almost all the States did so; but still it would not go; it continued to depreciate. Judge Story says of these issues:

"Congress endeavored to give them additional credit by declaring that they ought to be a tender in payment of all public and private debts; and that a refusal of the tender ought to be an extinguishment of the debt, and recommending the States to pass such tender laws. They even went further, and thought proper to declare that whoever should refuse to receive this property as *gold and silver*, should be deemed 'an enemy to the liberties of these United States.'"—*Ibid*, sec. 1353.

They at one time made provision for funding it at forty to one, but the notes were never brought in, and from 1775, from the issue of the first notes, to 1779 they ran down—I have seen the scales of deterioration, the different values at different times—until they stood at fourteen hundred for one, and in 1780 they stopped utterly, died in the hands of the persons who possessed them, and no attempt was ever made to redeem them at all. Judge Story gives the history in a few words:

"The States still continued to fail in complying with the requisitions of Congress to pay taxes; and Congress, notwithstanding their solemn declaration to the contrary, increased the issue of paper money, until it amounted to the enormous sum of upwards \$300,000,000. The idea was then abandoned of any redemption at par. In March, 1780, the States were required to bring in the bills at *forty for one*; and new bills were then to be issued in lieu of them, bearing an interest of five per cent. redeemable in six years, to be issued on the credit of the individual States and guaranteed by the United States. This new scheme of finance was equally un-

availing. Few of the old bills were brought in, and of course few of the new were issued. At last the Continental bills became of so little value that they ceased to circulate; and in the course of the year 1780 they quietly died in the hands of their possessors. Thus were redeemed the solemn pledges of the national Government! Thus was a paper currency, which was declared to be equal to gold and silver, suffered to perish in the hands of persons compelled to take it; and the very enormity of the wrong made the ground of an abandonment of every attempt to redress it."—*Ibid.*, sec. 1353.

"But the history of paper money, without any adequate funds pledged to redeem it, and resting merely on the pledge of the national faith, has been in all ages and in all nations the same. It has constantly become more and more depreciated; and, in some instances, has ceased from this cause to have any circulation whatsoever, whether issued by the irresistible edict of a despot or by the more alluring order of a republican Congress. There is an abundance of illustrative facts scattered over the history of those of the American colonies who ventured upon the pernicious scheme of raising money to supply the public wants during their subjection to the British crown, and in the several States, from the Declaration of Independence down to the present time."—*Ibid.*, 1355.

I will read another extract from Judge Story, to show the state of affairs in this country and the state of political parties in the country immediately before the adoption of the United States Constitution:

"In this state of things the embarrassments of the country in its financial concerns, the general pecuniary distress among the people from the exhausting operations of the war, the total prostration of commerce, and the languishing unthriftiness of agriculture, gave new impetus to the already marked political divisions in the legislative councils. Efforts were made on one side to relieve the pressure of the public calamities by a resort to the issue of paper money, to tender laws, and instalment and other laws, having for their object the postponement of the payment of private debts, and a diminution of the public taxes. On the other side, public as well as private creditors became alarmed from the increased dangers to property, and the increased facility of perpetrating frauds to the destruction of all private faith and credit. And they insisted strenuously upon the establishment of a government and system of laws, which should preserve the public faith, and redeem the country from that ruin which always follows upon the violation of the principles of justice, and the moral obligation of contracts. 'At length,' we are told, 'two great parties were formed in every State which were distinctly marked, and which pursued distinct objects with systematic arrangement. The one struggled with unabated zeal for the exact observance of public and private engagements. The distresses of individuals were, they thought, to be alleviated by industry and frugality, and not by relaxation of the laws, or by a sacrifice of the rights of others. They were consequently uniform friends of a regular administration of justice, and of a vigorous course of taxation, which would enable the State to comply with its engagements. By a natural association of ideas, they were also, with very few exceptions, in favor of enlarging the powers of the Federal Government, and of enabling it to protect the dignity and character of the nation abroad, and its interests at home. The other party marked out for itself a more indulgent course. They were uniformly in favor of relaxing the administration of justice, of affording facilities for the payment of debts, or of suspending their collection and of remitting taxes.'"—*Ibid.*, 486.

There were the two great parties of the nation; and out of that condition of things grew the form of the United States Constitution, which was then calculated and supposed to be not only well intended, but actually to provide for putting an entire end to all these delusions about a temporizing policy. This was the view with which the Constitution was formed. Now, it is proposed to try the old experiment again. These notes are to be put in circulation at a discount, as everybody knows; and the very form of the bill concedes it. The bill not only provides for the issuing of notes, but provides that they shall be a tender in payment of debts. If they are to be at par, and are to be kept at par, what occasion is there for the tender clause? It is utterly useless. It goes upon the ground, and it includes the implication that they are not to be at par. The bill, as it

came from the House of Representatives, in order to give currency to these notes, provided that men should have a right, when they had a quantity of them, to fund them in Government bonds, having twenty years to run, with interest payable in what? In these very notes that they had put in. It was saying to them, "if you will only take these notes, you may fund them in a bond, and take your pay in the notes again." What a financial juggle is that! That is the form in which it came to us from the other House; but an amendment, reported by our committee and adopted by the Senate, provides that the interest, at least, shall be payable in money. When I use that term, some gentlemen may say that it includes these notes, because we declare that these notes are money; and they think that that declaration makes them money. We know that of old there was a set of men in the world called alchemists, one of whose projects was, to discover what they called the philosopher's stone, which would transmute everything into gold; but I believe they never went so far as to suppose that they could make gold out of anything but the baser metals. We propose to make it out of paper without a particle of metal in the composition.

No, Mr. President; this is aiding and assisting men who happen to owe debts to pay those debts at par with a depreciated paper, at the cost and expense of the creditor. That is it, disguise it as much as you please. I call that impairing the obligation of contracts. I have seen a little syllabus of an argument, made in the House of Delegates of Virginia, by Mr. Madison, when they, before the adoption of the Constitution, were about to make a tender law. It is in his forthcoming papers, about to be published. He said it was the same thing as it would be in case a man had agreed to make deeds for a certain quantity of land; a law should then be made that he should deed but half of it. He said it was as clearly a destruction of the obligation of a contract as that would be. So with this.

You do this in the very bill with which you go before the community, and ask for credit upon your plighted public faith. What is the public faith? On what does it rest? It is that the Government appreciates the inviolability of contracts. In this very bill you make provision to enable a man, so far as the amount of the discount goes, to discharge his debt for a less sum than he agreed to pay. You put it in this very bill, and you do not oblige any one else in the community to receive the paper at all. Everybody else can do as he pleases about taking it for his property. You make it a law binding only on choses in action, and in no way reaching choses in possession. Therefore you make it for that purpose; a purpose which, upon the face of it, is to destroy the obligation of contracts, and therefore you do not hold contracts inviolable. Is it possible that you can expect to obtain the confidence of the community and the world with such language and such provisions in the very same bill in which you appeal for credit? If it must come to this, I should hope there would be the little decency of keeping it out of this bill, and putting it in a separate measure.

From the extracts which I have read, I deduce the conclusion, first, that such paper, put out without provision for its payment, and undertaken to be coerced upon the community by tender clauses, always, and in all countries, here and elsewhere, not only deteriorates, but I think I may safely say that such paper put out upon such terms and conditions in the history of the world never was paid, and I shall hereafter endeavor to show why, in all probability, it never will be. My honest opinion is that the Constitution never intended to invest Congress with any such power. On this

point I will suggest, first, that if this power was given to Congress it would be perfectly and utterly useless, except for purposes of injustice. Suppose there were no debts; suppose all debts were obliterated, and we were now about to raise money to start in our important national concerns, wanting credit, and we had said, in order to get along, that Congress shall have power to make the paper issued by the United States a tender; and suppose Congress directed an issue of paper and declared that it should be a tender: I ask whether anybody on earth could by that act be compelled to take it? Would not that tender clause be *brutum fulmen*? I am going now on the supposition that nobody now has anything due to him. Then, of course, there is nobody to whom you can make a tender. As to taking it for his property, a man is under no obligation to do that. Then a power of that kind given to Congress in the Constitution would be simply and utterly useless; it could have no practical effect. Then, suppose we have debts: what does it do? Would you invest Congress with the power in such a case? It is good for nothing under heaven but to enable people to cheat; Congress gets nothing by it. You put out your paper; it deteriorates; it is at a discount. A man sells his property for whatever price he pleases; and if he knows that he is to get this paper in payment, he will put on an artificial price to make up for its deterioration; and then he can tender the paper to his creditor in payment of a debt at its par value, though that creditor may thereby lose twenty-five per cent. of his debt. The obligation of the contract is impaired just that amount by the act of the Government. If that is the only practical use that can be made of a power in Congress to make paper a tender, it seems to me that it does not commend itself very much, nor do I think anybody will be very ready to believe that the Convention framed the Constitution on purpose to give this useless power just to enable some men to cheat their creditors. It would require a great deal more than silence to convince me that the convention actually intended to vest such a power as that in Congress for such an unjust purpose; and it can be used for no other purpose. The creditor loses his twenty-five per cent., and that does not go into the Treasury.

Again: before examining what the convention actually did, I will present one other consideration. It will be seen from the extracts I have read, that, when they were about to form the Constitution, the people had suffered, had been demoralized mainly by two things: first, by the Continental money which Congress had issued; and second, by paper which the States had issued after the war, and made a tender themselves, and made relief laws about. These were the two things from which the people had suffered. We all know that they wrote in the Constitution that no State should emit bills of credit, make anything but gold or silver coin a tender in payment of debts, or impair the obligation of contracts. Now, I would ask, were the evils, the troubles, and the disasters of the people all owing to the States doing that? Had not the people suffered to the amount of \$300,000,000 by paper issued by the old Congress of the Confederation? Yes. Then what they were complaining of was not merely that the States corrupted their people by such laws.

I would ask any man looking at it in that clear light of history, to say whether he believes that a convention would get together in that state of things and make a deliberate provision, in order to guard against the consequences and corruptions which had followed such a course of conduct, that no State should thus debauch its people, but that Congress might debauch the whole nation whenever it pleased. Can any man in his senses

believe that anything of that kind was or could have been intended? Yet that is the talk now, and that is the power which, it is said, is forbidden to the States and may be exercised by Congress.

I come next to inquire what the convention actually did. I know that the extract which I am now about to read has been read over and over again, but still it has not been read by me, and for the symmetry and consistency of my argument I must be indulged in reading it. The various provisions of the Constitution had been agreed to, and it had passed through the hands of the committee of revision, when the debate which I shall read took place. In that draft, among the powers of Congress, was the power to levy and collect taxes, duties, imposts, and excises, as it now is, and the further provision that Congress should have power to borrow money on the credit of the United States, and to *emit bills of credit*. Having already ingrafted in the Constitution that the States should have no power to emit bills of credit, or to make anything but gold and silver a tender, or to impair the obligation of contracts, they went on to talk further about this provision that was in the draft before them:

"Mr. GOUVERNEUR MORRIS moved to strike out 'and emit bills on the credit of the United States.' If the United States had credit, such bills would be unnecessary; if they had not, unjust and useless.

"Mr. BUTLER seconds the motion.

"Mr. MADISON. Will it not be sufficient to prohibit the making them a *tender*? This will remove the temptation to emit them with unjust views; and promissory notes, in that shape, may in some emergencies be best.

"Mr. GOUVERNEUR MORRIS. Striking out the words will leave room for notes of a responsible minister, which will do all the good without the mischief. The moneyed interest will oppose the plan of Government if paper emissions be not prohibited.

"Mr. GORHAM was for striking out without inserting any prohibition. If the words stand, they may suggest and lead to the measure.

"Mr. MASON had doubts on the subject. *Congress*, he thought, *would not have the power unless it were expressed*. Though he had a mortal hatred to paper money, yet, as he could not foresee all emergencies, he was unwilling to tie the hands of the legislature. He observed that the late war could not have been carried on had such a prohibition existed.

"Mr. GORHAM. The power, as far as it will be necessary or safe, is involved in that of borrowing. That is to say, Congress having the power to borrow money, could give a certificate on evidence of the debt.

"Mr. MERCER was a friend to paper money, though in the present state and temper of America, he should neither propose nor approve of such a measure. He was consequently opposed to a prohibition of it altogether. It will stamp suspicion on the Government to deny it a discretion upon this point. It was impolitic, also, to excite the opposition of all those who were friends to paper money. The people of property would be sure to be on the side of the plan, and it was impolitic to purchase their further attachment with the loss of the opposite class of citizens.

"Mr. ELLSWORTH thought this a favorable moment to shut and bar the door against paper money."

Its issue by the States was already provided against.

"The mischiefs of the various experiments which had been made were now fresh in the public mind, and had excited the disgust of all the respectable part of America. By withholding the power from the new Government, more friends of influence would be gained to it than by almost anything else. Paper money can in no case be necessary. Give the Government credit, and other resources will offer. The power may do harm, never good.

"Mr. RANDOLPH, notwithstanding his antipathy to paper money, could not agree to strike out the words; as he could not foresee all the occasions that might arise.

"Mr. WILSON. It will have a most salutary influence on the credit of the United States; to remove the possibility of paper money. This expedient can never succeed while its mischiefs are remembered; and, as long as it can be resorted to, it will be a bar to other resources."

I suppose that now the mischiefs are forgotten, and hence the attempt made.

"Mr. BUTLER remarked that paper was a legal tender in no country in Europe. He was urgent for disarming the Government of such a power.

"Mr. MASON was still adverse to tying the hands of the legislature *altogether*. If there was no example in Europe, as just remarked, it might be observed, on the other side, that there was none in which the Government was restrained on this head.

"Mr. READ thought the words, if not struck out, would be as alarming as the mark of the beast in Revelation.

"Mr. LANGDON had rather reject the whole plan, than retain the three words, 'and emit bills.'"—*Elliot's Debates*, vol. 5, pp. 434, 435.

The vote was then taken, and it stood nine States for striking out and two against. The great evil to be guarded against was emitting bills of credit and making them a legal tender. To the vote on this question, Mr. Madison appends the following note:

"The vote in the affirmative by Virginia was occasioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the Government from the use of public notes, as far as they could be safe and proper; and would only cut off the pretext for a *paper currency*, and particularly for making the bills a *tender* either for public or private debts."

Such, sir, is my view of the Constitution; and I would further say that all the men to whom we have been accustomed to look, especially those of that period, always entertained the opinion that the Government of the United States could have nothing else a tender but coin. The Constitution gives Congress power "to coin money" and "regulate the value thereof." That is the constitutional currency; and such was the practical construction of the Constitution from that day; the construction of the patriarchy who made it, and understood the evils that were endured, and the remedies that were intended to be applied. While they lived, there never was such a thing thought of as attempting to make evidences of the debt of the United States a legal tender, let their form be what they might. The time has come, however, when perhaps the memory of those things has passed away, and now it is attempted.

Mr. President, where is the power to do this derived from? It is said to be an incidental power, falling within that provision of the Constitution giving Congress authority to make all the laws which are necessary and proper to carry into effect the granted powers. When gentlemen desire to get some latitude and elbow room for action, I know that they are generally exceedingly desirous to get a thing into that category. If you can only get the power into that incidental clause, you have plenty of elasticity. It has so much India-rubber substance in it that you can take just as much elbow room as you want. There is, therefore, in those who desire to magnify their office and their power, a very strong inclination to resort to this clause.

It is said to be incidental to a great variety of powers. It is said that Congress has power to raise and support armies, *ergo* the incidental power to raise money in this form or any other form for the purpose of supporting armies! So it is said that the Government has power to pay its debts, *ergo* we may raise money in this way! The most general pack-horse for this incidental power, however, has been the authority given to Congress by the Constitution to regulate commerce, and this power is said to be derived from that. I have heard some considerable latitude of argument about that. At one time I thought Mr. Webster went quite far enough in the discus-

sion of 1836 on that subject, when he said that inasmuch as Congress had power to coin money and fix its value, and money was the instrument of commerce, they might therefore regulate bank notes and see to it that the people were always furnished with such a species of currency as was in their estimation equal to money. That was pretty latitudinarian; but yet he always insisted that Congress had no power to make anything a tender but gold and silver coin, the value of which was fixed and prescribed by Congress. But, sir, what is the power of Congress to regulate commerce? The Constitution says that Congress may "regulate commerce with foreign nations, and among the several States, and with the Indian tribes." Here is a bill authorizing the issue of Treasury notes and making them a tender in payment of debts. I want to know what that has to do with trade between the States? To my mind that, if it is doing anything, is regulating trade between me and my neighbor in the same State, not regulating trade between separate States, and not regulating foreign trade. It is merely regulating a shaving trade between debtor and creditor. The bill proposes to make these notes a tender to pass as the representative of value in trade between man and man. Under this clause of the Constitution, it might be proposed to adopt some measure for a commercial agency or commercial functionary; but if you make paper a tender, as I have before remarked, nobody will be bound to take it in exchange for property. Then it cannot be a measure of regulating commerce. It will not regulate it at all.

But, I have another idea in relation to all this business of incidental power. What is this measure? A bill to raise money to enable the Treasury to get along. There never can be such a thing as an incidental power in Congress to do a thing where there is an express grant of power for the purpose. If the power is expressly granted, that power only is to be exercised within its own limitations. You cannot abandon that express provision and hunt out for yourself some more convenient mode of getting latitudinarian authority by laying it under an incidental power. This is a money measure, nothing more, nothing less. Congress is expressly clothed by the Constitution with the power to raise money. The Constitution provides that "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States;" and that Congress shall have power "to borrow money on the credit of the United States." There is an express power granted to Congress to raise money; and it is further to be observed that the Constitution not only gives the power to raise it, but regulates the manner of raising it. There are two modes; one is the levying of taxes in some form under the various generic heads used in the clause, "taxes, duties, imposts, and excises," and the other is the borrowing of money. Most certainly the making of these notes a tender upon debts is not levying taxes, duties, imposts or excises. Then what is it, for it is a money measure? It is in substance borrowing money. I have always supposed that wherever there was a borrower, there was a lender, and I have supposed that both acted voluntarily, one in lending and the other in borrowing, and some inducement is always held out to the lender. If I can put my own price on my property that I have to sell, and put an artificial price on it when I know that I am going to be paid in this paper, and I then take the paper voluntarily, you may say, perhaps that that is loaning my money. But suppose I am authorized by the bill and I do take the \$500 of paper which I get for my property, and go over to my col-

league, Mr. Foot, to whom I owe money and tender him the \$500 of paper that cost me \$300, and pay off his \$500 debt with it, I should like to ask some man who is intimately acquainted with the idioms of our language if Mr. Foot has *loaned* his money? Do you call that borrowing money of Mr. Foot? There cannot be a greater perversion of terms.

The Senator from Maine spoke of forced loans, and I perfectly agree with him, only I wish to be more distinct and positive about it than he was. This operation is not anything like as honest or honorable as a forced loan. If I go for the Government to my colleague and say to him "I understand you have \$1,000 deposited in bank; the Government are in absolute want, and we will have it; you understand we must have it; we shall take it, and here is our certificate for the amount; if we are ever able, we will pay you." There is some kind of decency in that kind of robbery. But suppose, instead of that, the Government furnishes me with some of this paper money; I get it at a discount, and I go and pay it over to Mr. Foot upon my debt due to him, and cheat him out of \$300; nobody on the face of the earth is ever bound to pay him anything. I should like to know which is the more decent, which is the more just, which is the more honest of these two? If you can make a thing worse than absolute, direct robbery, I think you have got it about bad enough in this tender clause.

Now, Mr. President, leaving the subject of the constitutionality of this proceeding, about which I have said all that I desire, I wish to call attention to a few other features of the case. The bill concedes that the Government of the United States has not credit enough to make these notes go. It starts off with the concession that we are in such a state of bankruptcy that we cannot get the notes to go on our credit, but we must get an indorser. That is a common thing in trade, and I do not know that indorsing is a profitable business, but it is here proposed that we shall have an indorser for our paper, and what is the indorsement? This bill provides that the following words shall be printed on the back of each of these notes:

"The within note is a legal tender in payment of all debts, public and private."

This is to be a tender on all debts, and we say to everybody, "take it, and if you do not owe anything to anybody, you can find somebody that does owe something." That is to make them a currency, not upon the Government's promise to pay the debt, but upon the tender clause. That looks to me very much like the young lawyer's definition of a *prima facie* case. He said that it was a case which was good in front, but bad in the rear. (Laughter.) That is pretty much the condition of this currency; it is to be good in front, but tremendously bad in the rear. (Renewed laughter.) What is the language of it? "Why, here, sir, is this note; I want you to take it and get along with it; but if you do not get the pay of us, you see by the back it is tender for debts, and so you may get the pay of those who do not owe the debt, but hold a debt on which you can apply it at par." That is the English of ~~it~~ I have sometime in my life seen a book about *the way of putting things*. This is the way of putting things in the English language, without any financial thimble-rigging about it; but this concession of a want of credit, at the very start of your bill, an acknowledgment of bankruptcy to begin with, is not, in my mind, the way to make your paper go.

I have already said that here and abroad, in the history of the world, such paper not only always depreciates, but generally, and I think I may

safely say always, fails altogether, and is never paid. It is now proposed to issue these notes to the amount of \$150,000,000. You mean to make some other provision for getting along by and by. I have nothing now to say on the subject of the projected bank system. I may speak of that when I see it, when I read it, and understand its merits. I have nothing to say about it now. I have to proceed with the measure before us, the one in hand, or, as the lawyers say, at bar. Suppose you issue these \$150,000,000 of tenderable notes, and they go into circulation at a discount, what will be the consequence? I understand that the circulation of all the banks of the United States is now about \$136,000,000 and we have about \$200,000,000 of gold in the country, though there is very little of it, comparatively, in circulation. Of course these notes of ours will fill up the avenues of circulation, and they must displace some other circulating medium. Of course, as has always been the case, this depreciated circulation will displace that which is of more value. You never can have two articles of circulation, two money mediums that are not convertible into each other, which can be in circulation at the same time. The poorer crowds out the more valuable, and always will do so. These \$150,000,000. of notes will fill up the channels of circulation, and then what becomes of the bank notes that are redeemable? They are immediately crowded out, and the country will have no circulation but these notes.

Then suppose we carry out the proposed measure of taxation, which we have passed a resolution pledging our faith to do, raising \$150,000,000 this year. That will just cover this issue of notes. We send out our tax gatherers and we take in these \$150,000,000 of notes for the taxes. Then the whole community is left as bare as a picked goose; the people will not have a dollar of any kind; they will have no circulation at all. That thing will take place but once. I feel myself authorized, from the lessons of history as well as of common sense, to say that it never will be suffered by the people a second time. It cannot be endured. Even if you reissued these notes, the people would never consent to repeat that experiment. I know that members of Congress here do not mean to have the thing go on in that way. They mean to have the notes received for taxes and paid out until they are paid for good, and finally taken entirely out of circulation. But, I tell you that if the Representatives now in Congress visit the people with an effect of that kind they will give place to men who will not. Whenever you issue paper which obtains a circulation and depreciates and deteriorates, it crowds out all the better circulation, and any surplus of gold goes abroad. You cannot send this circulation abroad, for it has no value there. It has no intrinsic value whatever; but it displaces all other circulation, and the effect of it is that it deteriorates decidedly, largely. But what then? There is not enough of it for the people to do their business with. They demand more; and as it costs nothing to issue it, more is issued at the public demand. Every time a new issue is made the paper depreciates; and every time it depreciates it requires an addition to it in order to enable our people to get along with business. That has been the history of it everywhere. It was not only true here in relation to the continental money, but it was true in France in regard to their *assignats*, and at last, for the purpose of relieving themselves, they resorted to monarchy. So it was with Austria; so it always is. That is the nature of the thing.

Mr. LATHAM. The paper money of Austria stands eight to one.

Mr. COLLAMER. I believe it circulates at eight to one at this time. We have the lesson at home. Why was not the continental money redeemed?

For a plain reason. It went down in five years to nothing. Some people had taken it at twenty-five per cent., some at fifty, some at seventy-five, some had taken it at forty for one. It had been received by the people at all possible scales and rates of depreciation. When the question of redeeming it arose, it was at once said: "we cannot make any equity among these people, for they have taken it at all sorts of prices; and besides, any taxes that we might lay to take up these bills would be more unequal than it would be to let them die in the hands where they are."

That has been the history of it always, and always will be the world over. I am afraid of repeating such an experiment. I am free to acknowledge that I am alarmed at the lessons of history, in attempting to enter upon an experiment of this kind again in this country. I look upon this as, in a great measure, nothing more nor less than the initiation of that same continental money. I know it is not so intended, but such must be its necessary consequences.

I have said that from the lessons of history we have ground to apprehend that such notes, depending on coercion for their circulation, will never be paid. I mean if they are issued and Government persist in this policy, and indefinitely increase them, as has always been done when once commenced, such must be the result.

Mr. SUMNER. Will the Senator, while he is on that point, allow me to mention a fact in reference to the continental money, that it was not a legal tender.

Mr. COLLAMER. Yes, sir; it was.

Mr. SUMNER. I understand not.

Mr. COLLAMER. This was the situation of it: the Continental Congress issued the money for the States to take up. That Congress could make no laws; but they passed a resolution calling on the States to make it a legal tender, and all the States did make it a legal tender. I believe every State did it; but I shall not be positive about Rhode Island. That is the way it was.

Mr. SUMNER. I meant to say that it was not made so by Congress.

Mr. COLLAMER. They could not do it; they had not the power to pass laws, but they recommended to the States, and the States passed laws making it a tender. I read to-day the declaration of Congress that any man who refused to receive it at its full nominal value, equal to gold and silver, should be considered an enemy to the liberties of the United States. He was put into coventry, put out of society; but all did not serve; it went down, tender or no tender, enemy or no enemy to the Government.

It has been asked, "why not let the Government issue its paper and furnish the circulating medium of the country, instead of having the banks do it? It has been said that the banks issue their paper without paying any interest on it, and that the Government should have the same opportunity to furnish a currency. To this I have but one simple answer to make. I have merely to say to the Secretary of the Treasury, who uses this argument, "Sir, if you will redeem your notes on demand, as the banks do, you may issue them." But there is no provision made for the redemption of these bills at all. They are issued, in fact, payable on demand, but nobody pretends that they are to be paid according to their tenor.

In the next place, it seems to me that it is practicing a deception on the people. Poor people receive this paper for their wages. They go to the market to buy supplies for their families, and they find that what they used to get for one dollar costs two, and that a barrel of flour which used to cost them

five dollars, costs them ten. They soon understand the cause of it. If a man goes to them, calculating and wanting to plaster a thing over, he says to them, "Oh, these are war prices; terrible high prices are the result of war," and he endeavors to hoodwink the people to make them believe that it is not the act of their Government. This is a practical deception in which I am unwilling to have any participation.

I know it is said by some gentlemen that they do not care much if *creditors* should suffer. Let me inquire who it is that will suffer under this feature of the bill. Let me put a plain case, which must be well understood by all, at least in the northern portions of this country. We have all over New England and New York and Pennsylvania and Ohio savings banks. There were over forty millions of dollars in the savings banks of Massachusetts last October. There are more than two hundred millions of dollars in the savings banks of the country to-day. In the little village where I reside, in the recesses of the Green mountains, there is a savings bank that has almost two hundred thousand dollars on deposit. To whom does this money belong? It is deposited there by the operatives in factories, the little mechanics, the small farmers, the working girls in the factories. Whatever they save is deposited in the savings bank for a rainy day. The trustees who have charge of these banks, loan the money out on bond and mortgage, or any other security with which they are satisfied, to the business people of the country around them. They are enabled, after paying the expenses, to realize and divide among the depositors about five per cent. per annum. If you pass this law, all the people who owe these bonds and mortgages, all who have thus taken loans from the savings banks, can get this paper at a discount, or can get artificial prices for their property, which amounts to the same thing, and then they will go and pay off their debt to the trustees of the savings banks with this paper, ironically called money, and they must deliver it out to these poor depositors. Who suffers? A ha. hearted creditor? No, sir. The laboring poor lose the savings of their little industry by this course of legislation. Will these people when they take that little which they have put by for a rainy day, and go to market and give double prices for everything with it, be satisfied with being told that all this is owing to high war prices? The fact is that it is produced by the action of their Government here in these Halls.

Mr. President, I have occupied more time than belongs to me, perhaps not if the whole session was reckoned, but more time than belongs to me in debate on this question. The results I have come to are obvious and apparent. We have no constitutional power, we have no right to do this great evil, and therefore I will not do it so far as my voice can go. "Is thy servant a dog, that he should do this thing," if he is convinced that it is unconstitutional?

I have but little to say about the subject of patriotism. I have not been in the habit of ventilating my patriotism much in this body. I cannot say that I have any more of it than the good Christian man had of religion, who said he had no religion to brag of. I do not know that I have any patriotism to brag of. I have not stood here finding fault with the Administration of my Government, nor have I said anything calculated to weaken the credit of the Government, in New York or elsewhere, to lead the people to withdraw their confidence from their Administration and from their Government. I am content to let the Executive do his duty, while I do mine. As to my State, I can say no more, for I believe that no State in the Union submits to the sacrifices that she does to fill the

ranks of her troops and keep them full of competent men. She says to every soldier: "I will pay you seven dollars a month in addition to the United States pay, and will never expect anything from the Government in return for it."

Mr. COWAN. We pay eight.

Mr. COLLAMER. Well, sir, it is very much to your credit, but you are a great and growing State; we are not. We have a further provision that if any of them leave a family at home, we will see to it that it is taken care of.

Mr. President, it is said that after all this must be done from necessity.

I have already remarked that I cannot subscribe to the doctrine that any necessity can justify a breach of the Constitution; but I do not believe in that necessity. The honorable Senator from Maine has well gone over that point. The remarks made by the honorable Senator from Rhode Island the other day, [Mr. SIMMONS,] and those made to-day by the honorable Senator from Maine [Mr. FESSENDEN]—men who have paid attention to the subject—must convince us all on that point. Sir, there is some courage due from us. We have our friends and neighbors risking their lives on the high places of the field in support of the Constitution. You have not yet raised the first dollar for this war. You hesitate and palter and are in great distress and talk about the country being financially ruined, when you have not raised a single dollar, and have not tried. Is not the Government able? It has the exercise of eminent domain—the power to command all the property in the country in the form of taxation, or in any other constitutional method. You want our people in the field to proceed with courage and alacrity now and immediately; but when we are asked to do something of moral courage we hesitate and palter and shrink and find fault with it. Sir, this country is as able to sustain the armies it has in the field as it was to put them there. But the Government, it is said, has no property. No; the Government must not only be able, because it has command of all the property in the country, but must be willing. It does not do any good to tell a man whom you owe something, as a Government, that you are able to pay, when you are not willing to pay. That is the trouble. You have nothing to do but to exercise the powers you possess in commanding the resources that you can command, and you can have money and credit enough. I think some little courage becomes us, too, in performing our duty. I have no doubt that this country is able to sustain itself in this strife, pecuniarily as well as physically. I, for one, desire to do that; but I do not want to do it by saying that now, because the necessity requires money, I will go and steal it, or authorize anybody else to steal it. I will not say to a man: "Here is my note for so much, and if I do not pay it, you must steal the amount from the first man you come to, and give him this note in payment." I will do nothing of that kind. I have faith in the Government. I no way despair of the success of this Government. It cannot fail. Its power, its resources, its numbers are such that it is not possible it should fail. If we are not competent to exercise the proper moral courage to do our duties and come up to what is wanted, I hope we shall give place to men who are.